



**COMMITTEE ON JORDAN LAKE (LRC)(2013)**  
**April 16, 2014**  
**Room 544 of the Legislative Office Building**

The Committee on Jordan Lake (LRC)(2013) met on Wednesday, April 16, 2014 at 9:00 AM. The meeting was held in Room 544 of the Legislative Office Building. Members present were: Senators Rick Gunn, Chair, Neal Hunt, Floyd McKissick, Trudy Wade, and Representatives John Faircloth, Chair, Jon Hardister, Tom Murry, Edward Hanes, and Stephen Ross.

Representative John Faircloth presided.

Representative Faircloth called the meeting to order at 9:10AM. He welcomed all attendees and introduced the Sergeants-at-Arms and thanked them for their service. Representative Faircloth also introduced newly appointed Representative Robert Reives. He thanked him for attending and acknowledged that his district had an interest in this Committee. Representative Faircloth asked the members if they had any changes for the minutes from the March 19<sup>th</sup>, 2014 meeting. They did not, therefore the minutes were approved.

Representative Faircloth introduced Tom Reeder, Director of Division of Water Resources, in the Department of Environment and Natural Resources, to report on data collection and monitoring for the SolarBee pilot project. (See Attachment A).

Senator McKissick asked that based upon the data that they have received at this time, was he seeing any trending at all. Mr. Reeder answered that the lake was in the same status that it has always been in. The SolarBee devices have not been installed yet. The Morgan Creek and the Haw River Arms are still impaired for chlorophyll a. Mr. Reeder said they have seen a drop in the number in the Haw River Arm because of the phosphorus controls that have already been implemented. Senator McKissick asked if they have any anticipated reductions that they believe they will see that can become a type of benchmark as to whether it is successful. Mr. Reeder answered that he does not have any idea of what is going to happen. They have never done a project on this scale, and he does not think any other place in the U.S. has done a project on this scale. He stated that the company the State is renting the devices from is very confident it will work. Senator McKissick asked if there were projections from the company renting the devices based on other applications of the SolarBees. Mr. Reeder stated that Medora has said that based on their past experiences, if we deploy the devices in the manner that have instructed us to do, they should work to the level where the two arms of the river will no longer trigger impairment. Senator McKissick stated that it would be good if we could receive data from Medora on a letter head or a defined document that states what they think we should accomplish. He understands that it is a big experiment, but it would be nice to know that there are some articulable goals that



the State is trying to reach in a set time frame. Mr. Reeder said he can ask Medora for a document. Senator McKissick thanked Mr. Reeder for all his help and stated he had provided some excellent data to the Committee for consideration.

Senator Gunn thanked Mr. Reeder for his diligence and his efforts with this issue. He feels that it is evident that there will be transparency and documentation just by the way they have started the process, and how they will report as we move forward. He appreciated Mr. Reeder and his staff's efforts in helping the General Assembly keep their word. Senator Gunn stated that stagnant shallow water causes problems. The areas they are looking at qualify as stagnant water. He feels like Medora is very confident that the circulators will have an impact. He stated the large amount of money that would be used to implement the Jordan Lake Rules would have a lot of questions on whether they would have the impact that they hoped for. He feels that \$1 billion dollars versus \$1.5 million makes this pilot project warranted. He asked Mr. Reeder for an update on broader law relative to the Corps of Engineers and their approval process. Mr. Reeder answered that they started in October 2013 working with the Corps to get the easements that they need so they can put the devices in the lake. They are still working on that. They did a 120 page environmental assessment document which the Corps accepted. It took about three weeks to take the document and put it out to public notice. The public notice period has closed. They received about 2,000 comments. Mr. Reeder said they are in the process now of responding to those comments to the Corps. Once they are done, their expectation is they will grant them a Finding of No Significant Impact which will close out the environmental documentation process and then hopefully get their easement request approved so they can put the devices in the lake. The devices are built and housed in North Dakota. Senator Gunn stated that a circulation device was requested by Cary. He asked if they had gotten approval from Corps. Mr. Reeder stated they were still working with the Corps. Cary has requested devices for taste and odor problems. He believes their easement is approved, but their lawyers are still working on some things before they put the devices in.

Senator McKissick stated to Mr. Reeder that his concern is that the State has good baseline data that they start from, so there is accurate monitoring of water quality today. He stated that is because of the seasonal variations that impact it. Mr. Reeder agreed that there are seasonal variations. Senator McKissick would like for them to be able to measure and see if what they have done so far is effective. He is not opposed to the project, but more concerned about obtaining good data to see if this approach makes sense, as opposed to other options that might be utilized. Mr. Reeder answered that they have incredible levels of seasonal data on Jordan Lake. They have been studying the lake for years, and they have data on the sites that they have been sampling since last summer. When they get the easement from the Corps and get the devices in the lake, Mr. Reeder feels like by fall of 2016 they will know if the devices provide any positive impact on the lake.

Representative Faircloth thanked Mr. Reeder for his presentation.

Representative Faircloth opened the floor to public comments.



The first speaker was former member of the House of Representatives, Lucy T. Allen. She stated she represented the citizens and was a former chair of the House Environment Committee, a former co-chair of the Environmental Review Commission, and primary sponsor of the Jordan Lake Rules. She stated that Jordan Lake cannot be considered in a vacuum. She stated that what the Committee decided would set the tone for all lakes in North Carolina. Water quality and supply are crucial in North Carolina's economic development, health of the citizens, and environment. The Jordan Lake Rules represent years of research and public involvement. She asked the Committee to please consider carefully the consequences of their actions. She knows they have the best interest of North Carolina in mind.

The next speaker was Steve Rao, Council Member-at-Large in Morrisville. He asked the Committee to reconsider delaying the Jordan Lake Rules. He stated that over 300,000 citizens in the area rely on clean water from Jordan Lake. He asked that the State leaders take a proactive approach to ensure that an adequate supply of clean water is available to our growing region for now and the future. He asked that they please implement the Jordan Lake Rules.

The next speaker was Brooks Rainey Pearson, an Associate Attorney at the Southern Environmental Law Center. She stated that since 1983, the State has known that something needed to be done to reduce nutrient pollution in Jordan Lake. By 2007 the entire Jordan Lake Reservoir was listed as impaired for chlorophyll a. The Jordan Lake Rules were crafted to the problem of nutrient loading in Jordan Lake Watershed. Since 2009, the State has delayed the implementation of the Jordan Lake Rules. Last year they chose to conduct a costly two year experiment. The EPA has expressed concern that the SolarBee Experiment is inconsistent with the Clean Water Act. She is encouraging the NCGA to implement the Jordan Lake Rules.

Representative Faircloth called on Sean McCarthy of Frog Hollow Outdoors in Durham. They take kids out in canoes and kayaks in lakes and rivers in the Triangle, including Jordan Lake. He said they instruct the kids not to get water in their mouth when out in Jordan Lake. He feels like they should just be able to have fun in the lake. He asked the Committee to implement the Jordan Lake Rules.

Representative Faircloth called on Karen Rindge, Executive Director of Wake Up Wake County. They represent of 4,000 citizens in Wake County and the Triangle that are concerned about planning for our rapid growth. There will be many more people that need clean drinking water and more development. The purpose of the Jordan Rules is to reduce the pollutants and ensure clean drinking water for North Carolinians. The Clean Water Act requires that pollution be addressed upstream at the source, not in the lake. By delaying the Jordan cleanup plan by 3 to 6 years is putting N.C. out of compliance with the Clean Water Act. Wake Up Wake County urges the General Assembly to reinstate the Jordan Rules.

Representative Faircloth called on John Cox, the Water Quality Manager for the City of Durham Storm Water Services. His concern is that the toolbox that they have for managing stormwater runoff is too small. He commended the legislature for considering innovative approaches such as the solar power mixers. He feels that the State does need to look at things other than traditional



stormwater management out of the State BMP manual. Durham has been working to expand that toolbox. Durham has considered many of the alternatives that Mr. Reeder has spoken about in the meetings. They will be facing the same permitting issues. He thanks the Legislature and looks forward to seeing the outcome of the SolarBees.

Representative Faircloth called on Elaine Chiosso, Haw River keeper, Haw River Assembly. (See Attachment B for her presentation) She stated that they urge the Committee to recommend to the North Carolina General Assembly that the Jordan Lake Rules be immediately and fully reinstated during the upcoming 2014 Legislative Session.

Representative Faircloth called on Marlene Sanford of TREBIC in the Triad. She thanked the General Assembly for all that have done over the years with the Rules. She assured that everyone is interested in water quality as we all use it. She stated that none of the local governments have been asked to stop the implementation of the Rules. She understands that most if not all of the local governments in the Triangle area have moved forward with new development rules even though the legislature has delayed the implementation or requirement dates. The wastewater treatment plants are coming online despite the fact that the wastewater treatment plant rule has been delayed for required compliance. There are many other water quality regulations in place. The local governments that have not implemented the new development rule are primarily in the Triad. The reason why is because their growth rate is not as strong as it is in the Triangle and Charlotte regions. The delay in the rules has been critical in helping the Triad bounce back after the recession. By delaying the cost of the rules, they now have enough data to know that it would not have fixed the problem anyway.

Representative Faircloth thanked Ms. Sanford and all the other speakers. He opened it up for members to make comments. No one had any comments. He and Senator Gunn will discuss if there will be any future meetings this year on how the SolarBee project is going.

Senator McKissick suggested that the Co-Chairs provide some clarity on how they plan to move forward with Jordan Lake, and if it will be addressed in the upcoming Short Session.

Representative Faircloth stated that there is not a plan to introduce any legislation in the Short Session. His understanding when the legislation was passed last year was finding a way to treat the lake successfully. This is a unique situation that has upstream communities dealing with development. Downstream communities have done a lot of development because they have adequate water. There are needs on both ends of the spectrum. At this time he does not anticipate any legislation being recommended for the short session.

Senator Gunn thanked the people who spoke at the meeting. He understands that this is vital to upstream and downstream users that it is done right. They want to make sure that as they move forward dialogue will continue, but at this point no legislation is planned for the short session.

Representative Faircloth thanked everyone for their participation.

There being no further business, the meeting adjourned at 10:05AM.



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Representative John Faircloth, Presiding

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Rebecca Bauerband, Committee Clerk